IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

Tuesday, theFourteenth DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12961 of 2004

Between:

Jakkampudi Nagaratnam w/o Late Laxmipathi
Ravulapalem Village East Godavari District

..... PETITIONER

AND

1 Regional Joint Commissioner of Endowments, Kakinada
East Godavari District
2 Asst. Commissioner of Endowments Rajahmundry, E.G.Distirict
3 Sri Janaradhana Swamy Temple Komarajulanka Village,
rep. by its Person-in management

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in taking steps to dispossess the petitioner from the lands in an extent of Ac. 4.61 Cts in S.no.122/1,2,3 of Komarajulanka, Ravulepelam Mandal, East Godavari District by conducting auction of the lease hold right on 27/07/2004 pending consideration of the claim of the petitioner before the 1st respondent as illegal, Arbitrary and contrary to the statute, consequentially directing the respondents to drop further proceedings to dispossess the petitioner's from the said land.

Counsel for the Petitioner: MR.T.V.S.PRABHAKARA RAO

Counsel for the Respondents 1 & 2: GP FOR ENDOWMENTS

Counsel for Respondent No.3: Smt.N.Indrani.

The Court at the stage of admission made the following Order:

The petitioner claims to be the cultivating tenant in respect of the land belonging to the third respondent-Temple to an extent of Ac.4.61 cents, situated in survey No.122/1 to 3 of Komarajulanka village.

It is stated that the third respondent issued notice on 03-05-2003 under Rule 5 (1) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules 2003, made under G.O.Ms.No.379 Rev. (Endowments-I) dated 11-03-2003 stating that the tenancy in favour of the petitioner stood terminated. Thereafter, the petitioner made a claim petition (M.A.No.88 of 2003) before the second respondent-Assistant Commissioner of Endowments, Rajahmundry, East Godavari District claiming that he and his sons are small farmers, and thus they are entitled to the benefit of Section 82 (2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 1987. However, the claim was rejected by order dated 27-09-2003. Against the said order, the petitioner preferred an appeal on 10-06-2004 before the first respondent-Regional Joint Collector of Endowments, Kakinada, East Godavari District, which is still pending. It is alleged that in the meanwhile, the third respondent proposed to conduct an auction on 27-07-2004 in respect of the lease hold rights of the land in possession of the petitioner. In the circumstances, this writ petition is filed seeking declaration that the action of the respondents is arbitrary and illegal.

This Court while directing notice to the respondents by order dated 26-07-2004 granted stay of the proposed auction.

On behalf of the third respondent, a counter-affidavit has been filed, in which the fact that the appeal preferred by the petitioner against the order of the second respondent is pending before the first respondent has not been denied.

In the circumstances, I am of the view that it would be appropriate to protect the possession of the petitioner till the disposal of the statutory appeal pending before the first respondent.

Accordingly, I deem it appropriate to dispose of the writ petition with a direction to the first respondent-Regional Joint Commissioner of Endowments, Kakinada, East Godavari District to consider the appeal filed by the petitioner against the order of the second respondent-Assistant Commissioner of Endowments, Rajahmundry, East Godavari District dated 27-09-2003 and pass appropriate orders in accordance with law as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order. Till the appeal is disposed of, there shall not be auction in respect of the lease-hold rights of the land in question.

The writ petition is accordingly disposed of. No costs.

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14-09-2004

kdl

To

1 The Regional Joint Commissioner of Endowments, Kakinada
East Godavari District

2 The Asst. Commissioner of Endowments Rajahmundry,

E.G.Distirict
3 Two C.Cs. to the Government Pleader for Endowments, High

Court Buildings, A.P., Hyderabad (OUT)

4 Two C.D. Copies.